

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

EZELL JOHNSON,	:	
Plaintiff	:	
v.	:	CIVIL ACTION NO. 3:13-2052
WARDEN D. SAUERS, <u>et al.</u>,	:	(Judge Mannion)
Defendants	:	

MEMORANDUM

Plaintiff, Ezell Johnson, an inmate confined in the Allenwood Federal Correctional Center, White Deer, Pennsylvania, filed the above captioned civil rights action pursuant to 28 U.S.C. §1331. On November 15, 2013, Plaintiff filed a letter with the court in which he requests to “dismiss [his] civil action.” (Doc. No. [14](#)). Plaintiff's request will be construed as a motion for voluntary dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1), and will be granted.

Discussion

Rule 41(a) states in relevant part:

(1) By the Plaintiff.

(A) **Without a Court Order.** Subject to Rules 23(e), 23.1(c), 23.2, and 66 and any applicable federal statute, the plaintiff may dismiss an action without a court order by filing:

(i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; or

(ii) a stipulation of dismissal signed by all parties who have appeared.

(B) **Effect.** Unless the notice or stipulation states otherwise, the dismissal is without prejudice. But if the plaintiff previously dismissed any federal or state court action based on or including the same claim, a notice of dismissal operates as an adjudication on the merits.

The court will grant Plaintiff's motion and the case will be dismissed without prejudice to Plaintiff's renewal of his claims. A separate Order will be issued.

s/ Malachy E. Mannion
MALACHY E. MANNION
United States District Judge

DATED: November 18, 2013

O:\Mannion\shared\MEMORANDA - DJ\2013 MEMORANDA\13-2052-01.wpd